

**SAN LUIS OBISPO CUPA**  
**Deficiencies and Corrective Actions**

1. **Deficiency:** Area Plan update not complete.

**CUPA Corrective Action:** The Area Plan will be reviewed and updated by July 31, 2006 and the updated pages will be sent to the evaluation team leader.

2. **Deficiency:** The CUPA is not ensuring that all businesses annually submit their hazardous materials inventory or a certification statement on or before March 1 to the CUPA. The CUPA is only inspecting approximately 1/2 of the businesses required to comply with the business plan program. Therefore, the CUPA is ensuring only approximately 1/2 of the businesses inventories are annually updated or current.

**CUPA Corrective Action:** In Fiscal Year 2004/2005, the CUPA inspected 945 of 1,248 (76 percent) of the facilities in the business plan program (see attached revised Annual Inspection Summary Report). The 2005 Annual Inspection Summary Report submitted last year reported 931 inspections of 1,234 regulated businesses (75 percent). The discrepancy is from incomplete data entry by inspectors, which we corrected. An amended 2005 report, reflecting the actual inspection totals, is attached.

Prior to the audit, we had recognized that we were likely to continue to fail to meet our inspection goal of one inspection per facility per year. Based on a careful review of program statistics, we prepared a Budget Augmentation Request (BAR) for one additional CUPA inspector, in part to cover the 200 farms we became responsible for when the Ag Department ceased operating as a PA. We received approval for the position and will have it filled by late 2006. We project that the additional FTE will allow us to meet the goal of one annual inspection in all CUPA programs in future years and therefore correct this deficiency.

3. **Deficiency:** The Annual Summary Reports indicate that 76 Class 1 violations were identified in FY 03/04. However, the CUPA did not initiate formal enforcement or make referrals for each of these violations.

**CUPA Corrective Action:** The County of San Luis Obispo CUPA inspection and enforcement policy is to allow the business up to 30 days to correct most violations identified during the initial inspection<sup>1</sup>. More than 30 days may be allowed for compliance, depending on the circumstances.

Normally, a serious violator like Pacific Metal & Manufacturing would have received an automated NOV requiring an office hearing, and would have been subject to an AEO if they had not returned to compliance within 45 days. In this case, the inspector did not complete the necessary reinspection, notice of violation, and, if needed, AEO or criminal referral. Missing a major enforcement case is not the normal situation for this agency; however, due to our work load, occasionally, enforcement follow-up can be tardy. In this case, the business came into compliance about 75 days after the original inspection notice and no formal enforcement action was taken.

As a matter of policy, if the business corrects violations within 30 days (or 45 days if a second reinspection is appropriate), then an AEO is not issued<sup>1</sup>. Because our policy is designed to help foster compliance, AEOs are only issued when we are unable to compel the business to correct the violations. Secondly, if we were to issue AEOs for each Class 1 violation, we would have little time left for our other duties, since the administrative process can be time consuming and very costly (I already spend about 50% of my time dealing with enforcement related issues).

However, since we began our administrative enforcement program in 2003, we have completed 26 AEOs and collected a total of \$418,505<sup>2</sup> in penalties. As is shown in the table below, the amount of penalties collected has increased steadily from \$100,000 in 2003 to \$196,500 in 2006. We currently have 10 AEOs in process with a total of \$9,424,290 in fines imposed.

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<sup>1</sup> Violations that pose an immediate threat to human health or the environment, or are criminal in nature, such as illegal disposal of hazardous waste, are processed as part of either an AEO or a criminal referral, or both.

<sup>2</sup> This total does not include AEO penalties for the PA

## AEO TOTALS - ALL YEARS

### TOTAL COLLECTED/SETTLED

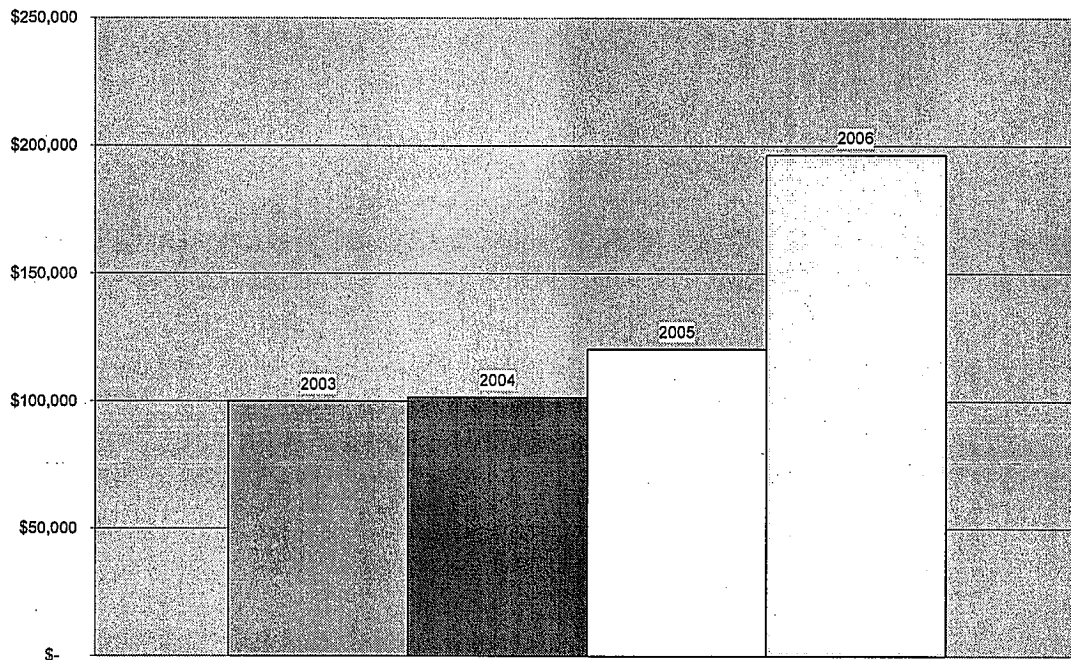
	YEAR	SITE NAME	FINE	PROG ELEM	STATUS
1	2003	NO COUNTY AUTO WRECKING	\$ 100,000	1135	COLLECTED
		<b>2003 SUBTOTAL</b>	<b>\$ 100,000</b>		
2	2004	CHEVRON SERVICE CENTER	\$ 2,500	0335	COLLECTED
3	2004	CAMBRIA GENERAL STORE	\$ 1,000	0335	COLLECTED
4	2004	CHAPALA MARKET	\$ 2,000	0335	COLLECTED
5	2004	GILL'S FOOD MART	\$ 1,000	0335	COLLECTED
6	2004	GOLDEN HILL COUNTRY STORE	\$ 39,000	0335	COLLECTED
7	2004	R CORNER STORE	\$ 45,000	0335	COLLECTED
8	2004	RALCCO	\$ 9,000	1135	COLLECTED
9	2004	RAGGED POINT INN	\$ 2,000	0335	COLLECTED
		<b>2004 SUBTOTAL</b>	<b>\$ 101,500</b>		
10	2005	ROSIE'S FOOD MART	\$ 7,500	0335	COLLECTED
11	2005	STAGECOACH LIQUOR	\$ 3,000	0335	COLLECTED
12	2005	NAGSCO	\$ 36,205	1135	COLLECTED
13	2005	SHORE'S SERVICE	\$ 2,500	0335	COLLECTED
14	2005	GOLDEN GATE SHELL	\$ 15,400	0335	COLLECTED
15	2005	GOLDEN GATE PETROLEUM	\$ 38,400	0335	COLLECTED
16	2005	PISMO FOOD STORE	\$ 500	0335	COLLECTED
17	2005	ONE STOP FOOD STORE	\$ 5,000	0335	COLLECTED
18	2005	LUXURY LIGHTING	\$ 10,000	1135	COLLECTED
19	2005	LAKE NACIMIENTO RESORT	\$ 2,000	0335	COLLECTED
		<b>2005 SUBTOTAL</b>	<b>\$ 120,505</b>		
20	2006	MESA VIEW MARKET	\$ 1,500	0335	COLLECTED
21	2006	CALIFORNIA FINE WIRE	\$ 175,000	1135	COLLECTED
22	2006	BOB'S CORNER STORE	\$ 5,000	0335	COLLECTED
23	2006	FIVE CITIES CHEVRON	\$ 15,000	0735	COLLECTED
24	2006	UNION 76 #254717	\$ 6,000	1135	COLLECTED
25	2006	TOSCO CORP SITE #254232	\$ 5,000	1135	COLLECTED
26	2006	SBC PAC BELL	\$ 31,000	0735	COLLECTED
		<b>2006 SUBTOTAL</b>	<b>\$ 196,500</b>		<b>COLLECTED</b>

**TOTAL ALL YEARS: \$ 418,505**

IN PROCESS

RECORD ID	SITE NAME	FINE	PROG ELEM	STATUS
1 PR0010462	PHELAN & TAYLOR	\$ 457,000	0235	ALJ DECISION/FINAL UNDER CIVIL REVIEW
2 PR0008287	CALIFORNIA CHEMICAL	\$ 280,435	0235	UNDER NEGOTIATION
3 PR0010936	ROSIE'S FOOD MART	\$ 1,492,000	0335	APPEALED TO ALJ
4 PR0010936	ROSIE'S FOOD MART	\$ 390,000	0335	PENDING PERFECTION
5	MAJENO	\$ 429,975	1135	UNDER ALJ REVIEW
6 PR0011121	LONG'S DRUGS ARROYO	\$ 409,560	1135	PENDING NEGOTIATION
7 PR0011104	LONG'S DRUGS PISMO	\$ 384,100	1135	PENDING NEGOTIATION
8 PR0007116	NIPOMO MARKETPLACE	\$ 5,484,000	0335	DRAFT AEO
9	LAKE NACIMIENTO RESORT		0335	DRAFT AEO
10 PR0007060	CHALK MOUNTAIN LIQUOR	\$ 97,220	0335	DRAFT AEO
		TOTAL: \$ 9,424,290		

AEO PENALTIES COLLECTED BY YEAR



Most importantly, even though we are seeing an increase in the fine amounts of AEOs, it appears as if the number issued is falling, and inspectors report to me that they are getting much better response from businesses that were formerly compliance headaches.

4. **Deficiency:** The CUPA has not adequately documented that all facilities issued a notice to comply, citing minor violations, have returned to compliance within 30 days of notification.

**CUPA Corrective Action:** Our inspection form includes a statement that requires the facility to correct all listed violations, sign the statement attesting violations have been corrected, and return a copy of the form with any required supporting documentation within 30 days. Due to inspector workload, we do a poor job of following up on violators and seeing that violations are corrected. Recently, I met with Dan Firth of Palo Alto Fire Department and we shared technological solutions to several of our information management and workload related problems. We are looking at adopting one of his strategies where an administrative person is assigned the job of following up on late or absent violation correction forms by phoning the business and sending out NOVs when they are unresponsive. When we are able to deploy the Unidocs electronic data submission technology<sup>3</sup>, we should be able to free up part of an administrative FTE that is responsible for business plan data entry. When the Unidocs implementation project is complete, I plan to propose utilizing that partial FTE to document correction of minor violations. Once this solution is implemented, we should see a significant improvement in return to compliance documentation for minor violations. Due to the time it will take to gain significant business acceptance and use of Unidocs, it will likely be 2008 or beyond before administrative tracking of minor violations can be completed.

5. **Deficiency:** The CUPA is not ensuring that businesses are updating or submitting annual Hazardous Waste/Tiered Permitting Permit by Rule notifications. Additionally, the CUPA is not initiating appropriate enforcement actions against those businesses that fail to submit such information.

**CUPA Corrective Action:** I have assigned the Hazardous Waste Program Lead Inspector to follow up on all Hazardous Waste/Tiered Permitting Permit by Rule notifications and issue a reminder letter to all businesses by July 6, 2006. Businesses that do not comply by August 7, 2006 will be issued NOVs, with further enforcement followup, if necessary. In future years, we will send the reminder letter in January.

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<sup>3</sup> Currently, our database, Envision, cannot accept XML exports from Unidocs. The solution for this problem is supposed to be addressed with the next Unidocs grant cycle. I do not have a timetable yet for completion of this project.

6. **Deficiency:** The plot plans contained in the UST facility files reviewed did not contain all the required elements. The plot plans are missing the location of where the monitoring is performed.

**CUPA Corrective Action:** This is a training issue and I have reminded inspectors to check that this requirement is met for all business plan submissions where USTs are present. I will follow up by randomly selecting 10 files every quarter from recently completed UST inspections and reviewing the plot plans for compliance. Those that lack the required elements will be returned to the inspector for correction. We should have this deficiency corrected within one year for all sites.

7. **Deficiency:** The CUPA is not inspecting all UST facilities annually. During the past fiscal year, FY 04/05, the CUPA inspected approximately 85% of the UST facilities. However, during the previous three fiscal years, their inspection rate was approximately 50%.

**CUPA Corrective Action:** In FY 05/06, we inspected 86% of UST facilities, and we inspected 77% in 04/05. The previous two years the inspection rate was listed correctly as "approximately 50%". We have shown a steady improvement in the past three years and expect to have 100% of the facilities inspected this year with the additional inspector on board. Hire date is anticipated to be December of 2006.

8. **Deficiency:** The CUPA has not completed their annual Self-Audit Reports for the past three fiscal years, including an evaluation of their PA.

**CUPA Corrective Action:** The CUPA will complete the annual self audit by September 30 of each year, including a summary of findings from the PA audit.

9. **Deficiency:** The Annual Summary Reports submitted by the CUPA, for the past three fiscal years has been incomplete, under reporting the CUPA's activities for several data elements.

**CUPA Corrective Action:** By using the field inspection system (FIS) and tablet computers, we will greatly reduce data entry errors that account for some of the under reporting of inspection activity. Also, inspection activity and violations will automatically populate the database upon daily synchronization. We have a tracking system in

place for enforcement projects so that the data is better maintained and more accurate. Periodic review of a custom report enables me to monitor the quality of the data and avoid under reporting due to improper keying. I believe we have concluded the bug fixes necessary for the Envision suite of CUPA reports to accurately quantify the data. Therefore, this year's CUPA reports should be timely and very accurate.

If you have questions, please call me at (805) 781-5555.

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